

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

KITTY GRAHAM,)
)
Plaintiff,)
)
vs.)
)
THE COLONIAL BANC GROUP, INC.)
and COLONIAL BANK, N.A.,)
)
Defendant.)

CIVIL ACTION NO.:
2:06CV270-WKW

Judge Watkins

DEFENDANTS' MOTION FOR COSTS

COME NOW Defendants The Colonial BancGroup, Inc. and Colonial Bank, N.A. (collectively, "Colonial") and respectfully submit the following Motion for Costs pursuant to the Court's Final Judgment (Doc. no. 37).

In support of this motion, Colonial states as follows:

1. On March 24, 2006, Plaintiff Guy commenced this action against Colonial, alleging that Colonial discriminated against her by terminating her employment on the basis of sex and age in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, and the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 671, *et seq.* (Doc. no. 1).

2. On August 21, 2006, Colonial filed its Motion for Summary Judgment on all of Plaintiff's claims. (Doc. no. 16). Thereafter, the parties submitted their respective briefs.

3. On December 15, 2006, Magistrate Judge Delores Boyd issued her Report and Recommendation to the District Court, recommending that the Court grant Colonial's summary judgment motion and enter judgment in its favor on all of Plaintiff's claims. (Doc. no. 28).

4. On January 29, 2007, the District Court (the Honorable Judge Watkins presiding) affirmed the Magistrate Judge's Report and Recommendation and entered Final Judgment for

Defendants. (Doc. no. 37). Further, the Court ordered that “[c]osts are taxed against the plaintiff for which execution may issue.” *Id.*

5. The time for appeal has expired.

6. With respect to costs other than attorneys’ fees, Rule 54(d)(1), FED. R. CIV. P. provides as follows: “[e]xcept when express provision therefor is made either in a statute of the United States or in these rules, costs other than attorneys’ fees shall be allowed as of course to the prevailing party unless the court otherwise directs....”

7. In the instant case, Defendants’ costs are as follows:

Soft cost:	\$ 730.62 (phone, copies, faxes, etc.)
<u>Hard cost:</u>	<u>\$ 133.56 (invoices paid for transcripts, etc)</u>
TOTAL	\$ 864.18

See Invoice for Costs, attached hereto as Ex. A.¹

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that the Court enter an order directing that Plaintiff pay Defendants costs in the amount of \$864.18.

Respectfully submitted this 21st day of March, 2007.

/s/Christopher W. Weller

Christopher W. Weller (WEL030)

CAPELL & HOWARD, P. C.

P.O. Box 2069

Montgomery, Alabama 36102-2069

(334) 241-8000

**THE COLONIAL BANCGROUP, INC. &
COLONIAL BANK, N.A.**

David B. Byrne, Jr. (ASB-0354-R69D)

General Counsel

One Commerce Street

Montgomery, Alabama 36104

ATTORNEYS FOR DEFENDANTS

¹ Capell & Howard consolidated the billing for this action and the companion action commenced by Susan Guy. As reflected in the invoices attached at Exhibit A hereto, the sum of the associated costs associated with the defense of both actions was \$1,728.37. Consequently, Plaintiff Graham’s pro-rata share of the costs is \$864.18.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon counsel of record *via* U.S. Mail:

Kitty Graham, Pro Se
P.O. Box 240597
Eclectic, Alabama 36024

DONE this the 21st day of March, 2007.

/s/Christopher W. Weller
Of Counsel

EXHIBIT A

CAPELL & HOWARD, P.C.

150 South Perry Street
Montgomery, Alabama 36104
www.CapellHoward.com

Federal Tax ID: 63-0593542

Colonial Bank, NA and The Colonial Bankgroup, Inc.
David Byrne, General Counsel

Statement Date: July 12, 2006
Statement No. 122502

Matter: 23548-041 Susan Guy and Kitty Graham - Age and Sex Discrimination Claim

Professional Services Rendered Through: June 30, 2006

Costs

6/6/2006	Runner/Errand Service	5.00
6/16/2006	Westlaw Research	6.75
6/20/2006	Westlaw Research	96.32
6/29/2006	Runner/Errand Service	5.00
	Total Costs:	113.07

Costs Advanced

6/28/2006	Action Legal Document Services, LLC	62.72
	Total Costs Advanced:	62.72

CAPELL & HOWARD, P.C.

150 South Perry Street
Montgomery, Alabama 36104
www.CapellHoward.com

Federal Tax ID: 68-0593542

Colonial Bank, NA and The Colonial Bankgroup, Inc.
David Byrne, General Counsel

Statement Date: August 4, 2006
Statement No. 122887

Matter: 23548-041 Susan Guy and Kitty Graham - Age and Sex Discrimination Claim

Professional Services Rendered Through: July 31, 2006

Costs

	Photocopying	4.70
7/6/2006	Westlaw Research	7.64
7/18/2006	Runner/Errand Service	5.00
7/21/2006	Electronic Scanning	0.80
7/24/2006	Westlaw Research	200.47
	Total Costs:	218.61

Costs Advanced

7/5/2006	Pete's Print and Copy Service	66.60
7/5/2006	Christopher W. Weller	71.20
7/5/2006	Pete's Print and Copy Service	66.60
	Total Costs Advanced:	204.40

CAPELL & HOWARD, P.C.

150 South Perry Street
Montgomery, Alabama 36104
www.CapellHoward.com

Federal Tax ID: 63-0598542

Colonial Bank, NA and The Colonial Bankgroup, Inc.
David Byrne, General Counsel

Statement Date: September 5, 2006
Statement No. 123385

Matter: 23548-041 Susan Guy and Kitty Graham - Age and Sex Discrimination Claim

Professional Services Rendered Through: August 31, 2006

Costs		
	Photocopying	32.40
8/10/2006	Westlaw Research	213.07
8/17/2006	Westlaw Research	11.24
8/18/2006	Runner/Errand Service	5.00
8/21/2006	Electronic Scanning	7.90
8/21/2006	Electronic Scanning	7.90
	Total Costs:	277.51

CAPELL & HOWARD, P.C.

150 South Perry Street
Montgomery, Alabama 36104
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Federal Tax ID: 68-0593542

Colonial Bank, NA and The Colonial Bankgroup, Inc.
David Byrne, General Counsel

Statement Date: October 6, 2006
Statement No. 124187

Matter: 23548-041 Susan Guy and Kitty Graham - Age and Sex Discrimination Claim

Professional Services Rendered Through: September 30, 2006

Costs

9/26/2006	Westlaw Research	252.53
Total Costs:		252.53

CAPELL & HOWARD, P.C.

150 South Perry Street
Montgomery, Alabama 36104
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Federal Tax ID: 63-0593542

Colonial Bank, NA and The Colonial Bankgroup, Inc.
David Byme, General Counsel

Statement Date: November 2, 2006
Statement No. 124637

Matter: 23548-041 Susan Guy and Kitty Graham - Age and Sex Discrimination Claim

Professional Services Rendered Through: October 31, 2006

Costs

	Fax Telephone Charge	0.90
	Photocopying	9.70
	FAX	1.50
10/4/2006	Electronic Scanning	0.50
10/4/2006	Westlaw Research	539.08
10/4/2006	Runner/Errand Service	5.00
10/5/2006	Electronic Scanning	2.00
10/5/2006	Runner/Errand Service	5.00
10/6/2006	Electronic Scanning	8.30
	Total Costs:	571.98

CAPELL & HOWARD, P.C.

150 South Perry Street
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Federal Tax ID: 63-0598542

Colonial Bank, NA and The Colonial Bankgroup, Inc.
David Byrne, General Counsel
One Commerce St.
Montgomery, AL 36104

Statement Date: February 5, 2007
Statement No. 126255

Matter: 23548-041 Susan Guy and Kitty Graham - Age and Sex Discrimination Claim

Professional Services Rendered Through: January 31, 2007

Costs

1/2/2007	Westlaw Research	27.55
Total Costs:		27.55